

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

Blue Spike, LLC,

*Plaintiff,*

v.

Texas Instruments, Inc., et al.,

*Defendants.*

CASE NO. 6:12-cv-499 MHS

LEAD CASE

Jury Trial Demanded

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Blue Spike, LLC,

*Plaintiff,*

v.

ZK Technology, LLC, et al.,

*Defendants.*

CASE NO. 6:12-cv-608 MHS

CONSOLIDATED CASE

Jury Trial Demanded

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**PLAINTIFF’S REPLY IN RESPONSE TO  
DEFENDANT ZK TECHNOLOGY’S COUNTERCLAIMS**

Plaintiff Blue Spike, LLC files this Reply to the Counterclaims of ZK Technology, LLC (“ZK Technology” or “Defendant”) (Case No. 6:12-cv-499, Dkt. No. 488) as follows.

All allegations not expressly admitted or responded to by Plaintiff are denied.

**PARTIES**

1. Blue Spike admits the allegations of Paragraph 1, upon information and belief.
2. Blue Spike admits the allegations of Paragraph 2.

**JURISDICTION AND VENUE**

3. Blue Spike admits the allegations of Paragraph 3.
4. Blue Spike admits the allegations of Paragraph 4.

5. Blue Spike admits that it has consented to venue in this District, and denies that jurisdiction and venue are not proper here.

**COUNT I: DECLARATORY JUDGMENT OF  
INVALIDITY OF THE '472 PATENT**

6. Blue Spike repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 5 above.

7. Blue Spike denies the allegations of Paragraph 7.

8. Blue Spike admits the allegations of Paragraph 8.

9. Blue Spike denies the allegations of Paragraph 9.

**COUNT II: DECLARATORY JUDGMENT OF  
NON-INFRINGEMENT OF THE '472 PATENT**

10. Blue Spike repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 9 above.

11. Blue Spike denies the allegations of Paragraph 11.

12. Blue Spike admits the allegations of Paragraph 12.

13. Blue Spike denies the allegations of Paragraph 13.

**COUNT III: DECLARATORY JUDGMENT OF  
INVALIDITY OF THE '700 PATENT**

14. Blue Spike repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 13 above.

15. Blue Spike denies the allegations of Paragraph 15.

16. Blue Spike admits the allegations of Paragraph 16.

17. Blue Spike denies the allegations of Paragraph 17.

**COUNT IV: DECLARATORY JUDGMENT OF  
NON-INFRINGEMENT OF THE '700 PATENT**

18. Blue Spike repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 17 above.
19. Blue Spike denies the allegations of Paragraph 19.
20. Blue Spike admits the allegations of Paragraph 20.
21. Blue Spike denies the allegations of Paragraph 21.

**COUNT V: DECLARATORY JUDGMENT OF  
INVALIDITY OF THE '494 PATENT**

22. Blue Spike repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 21 above.
23. Blue Spike denies the allegations of Paragraph 23.
24. Blue Spike admits the allegations of Paragraph 24.
25. Blue Spike denies the allegations of Paragraph 25.

**COUNT VI: DECLARATORY JUDGMENT OF  
NON-INFRINGEMENT OF THE '494 PATENT**

26. Blue Spike repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 25 above.
27. Blue Spike denies the allegations of Paragraph 27.
28. Blue Spike admits the allegations of Paragraph 28.
29. Blue Spike denies the allegations of Paragraph 29.

**COUNT VII: DECLARATORY JUDGMENT OF  
INVALIDITY OF THE '175 PATENT**

30. Blue Spike repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 29 above.
31. Blue Spike denies the allegations of Paragraph 31.

- 32. Blue Spike admits the allegations of Paragraph 32.
- 33. Blue Spike denies the allegations of Paragraph 33.

**COUNT VIII: DECLARATORY JUDGMENT OF  
NON-INFRINGEMENT OF THE '175 PATENT**

- 34. Blue Spike repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 33 above.
- 35. Blue Spike denies the allegations of Paragraph 35.
- 36. Blue Spike admits the allegations of Paragraph 36.
- 37. Blue Spike denies the allegations of Paragraph 37.

**EXCEPTIONAL CASE**

- 38. Blue Spike denies the allegations of Paragraph 38.

**PRAYER FOR RELIEF**

- 39. Blue Spike denies that Defendant is entitled to any of the relief it requests.

**DEMAND FOR JURY TRIAL**

- 40. Paragraph 40 does not contain any allegations requiring an admission or denial.

**PLAINTIFF'S PRAYER FOR RELIEF**

In addition to the relief requested in its Original Complaint, Blue Spike respectfully requests a judgment against Defendant as follows:

- (a) That Defendant take nothing by its Counterclaims;
- (b) That the Court award Blue Spike its costs and attorneys' fees incurred in defending against these Counterclaims; and
- (c) Any and all further relief for Blue Spike as the Court may deem just and proper.

Respectfully submitted,

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***Counsel for Blue Spike, LLC***

**CERTIFICATE OF SERVICE**

I, Randall T. Garteiser, am the ECF User whose ID and password are being used to file this document. I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this day. Pursuant to Federal Rule of Civil Procedure 5, this document was served via U.S. Mail and electronic means to counsel for Defendant that are not receiving this document via CM/ECF.

/s/ Randall T. Garteiser  
Randall T. Garteiser